

STATE OF VERMONT
PUBLIC SERVICE BOARD

CPG #NM-401

Application of Frank Cole for a certificate of public)
good for an interconnected net-metered wind)
turbine

Order entered: 9/10/2010

**ORDER OPENING INVESTIGATION
AND NOTICE OF PREHEARING CONFERENCE**

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") commences an investigation, pursuant to 30 V.S.A. §§ 203, 208, 209, 219a and 248 and Vermont Public Service Board ("Board") Rule 5.100, into complaints of excessive noise generated by a net-metered wind turbine owned by Frank Cole. In this investigation, the Board will determine whether good cause exists to modify or revoke the Certificate of Public Good ("CPG") that the Board issued to Mr. Cole on April 9, 2008, and the Amended CPG that was issued on October 6, 2008.

II. BACKGROUND

On October 6, 2008, the Public Service Board ("Board") issued an Amended Certificate of Public Good ("CPG NM-401") to Frank Cole for a net-metered wind turbine system located on his property in Shelburne, Vermont.

On March 17, 2010, George Winfield and Nancy Herman, neighboring landowners of the Coles, filed a letter with the Board complaining of excessive noise generated by the turbine.

On April 7, 2010, the Board issued a memorandum requesting comment on the letter from the Winfield-Hermans. The Board received responses from Mr. Cole and the Town of Shelburne in response to the memorandum.

In response to the complaint, on May 17, 2010, Board staff conducted a site visit at both the Coles' and Winfield-Hermans' properties. In addition to the Coles and the Winfield-Hermans, the site visit was attended by other neighbors, members of the Shelburne Planning

Commission, the Vermont Department of Public Service, and representatives from AllEarth Renewables, the manufacturer and installer of the wind turbine. Upon visiting the Winfield-Herman property, Board staff could discern clearly audible noise from the operating turbine. When questioned regarding the noise levels, representatives from AllEarth Renewables agreed that the noise levels exceeded their expectations and that the company was actively working to remedy this problem.

On June 4, 2010, the Board issued a memorandum strongly encouraging Mr. Cole to continue to work with the manufacturer to resolve the turbine noise issues as soon as possible. We required that Mr. Cole, within 30 days of the date of this memorandum, notify the Board as to the progress of the turbine repair or replacement. We also stated that if the turbine is not adequately repaired or replaced so as to effectively address the noise level by July 30, 2010, the Board will consider opening an investigation as to whether the CPG should be amended to include standards regarding noise, or revoked.

On July 27, Mr. Cole filed a letter with the Board stating the turbine had been replaced but that the replacement "did not seem to make an appreciable difference but did not seem any worse."

On July 29, 2010, AllEarth Renewables filed an e-mail with the Board stating that it had installed a new rotor at the Cole residence, but concluded that the "new rotor was not quieter" than the existing rotor.

Pursuant to Section 9 of the net metering application form, applicants are required to describe the visual and aesthetic impact of the proposed project and explain why the project will not have an undue adverse effect on aesthetics and the scenic and natural beauty of the area. The Board relies on this attestation in finding that the project does not raise a significant issue with respect to the environmental criteria of 30 V.S.A. § 248.¹ Condition 1 of the CPG provides:

Operation and maintenance of the project shall be in accordance with the plans and evidence submitted in this proceeding. Any material or substantial change in the project is prohibited without prior Board approval.

1. CPG NM-401, Amended Order issued 10/6/08, at 2 (Finding 4).

Further, Condition 2 of the CPG requires that "[t]he net metering system shall comply with applicable existing and future statutory requirements and Board Rules and Orders."²

We open this investigation in order to determine whether the noise generated by the installed wind turbine constitutes an undue adverse impact on aesthetics and is, therefore, not in accordance with the representations made in the application. The investigation will consider whether, as a result of any such non-compliance, good cause exists to modify or revoke the CPGs that the Board issued to Mr. Cole on April 9 and October 6, 2008. In addition, because the applicant has been unable to stop or reduce the noise generated by the wind turbine, at the prehearing conference the applicant should be prepared to address why operation of the turbine should not be suspended pending the outcome of this investigation.

III. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. Pursuant to 30 V.S.A. §§ 203, 208, 209, 219a and 248 and Vermont Public Service Board ("Board") Rule 5.100, an investigation is commenced regarding complaints of excessive noise generated by a net-metered wind turbine owned by Frank Cole.

2. Pursuant to 30 V.S.A. § 8, Gregg Faber, Utilities Analyst, is appointed to serve as the Hearing Officer for this proceeding.

2. Pursuant to 30 V.S.A. Section 10, a prehearing conference will be held in this matter on Wednesday, September 22, 2010, commencing at 10:00 A.M., at the Public Service Board Hearing Room, Third Floor, Chittenden Bank Building, 112 State Street, Montpelier, Vermont.

2. CPG NM-401, Amended CPG issued 10/6/08, at 1 (Condition 2).

Dated at Montpelier, Vermont, this 10th day of September, 2010.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: September 10, 2010

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)